

ASSEMBLY BILL

No. 1516

Introduced by Assembly Member Lieu

February 27, 2009

An act to amend Section 1054.3 of the Penal Code, relating to criminal procedure.

LEGISLATIVE COUNSEL'S DIGEST

AB 1516, as introduced, Lieu. Criminal procedure: discovery.

Existing law provides that no discovery shall occur in criminal cases except as provided by statute or as mandated by the Constitution of the United States. Under existing law, a defendant and his or her attorney are required to disclose to the prosecuting attorney any reports or statements of experts made in connection with the case, including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial.

This bill would grant the prosecution access to a criminal defendant for the purposes of having a prosecution expert conduct a mental health examination whenever a defendant places his or her mental state at the time of the crime in issue by plea or by giving notice of his or her intention to call a mental health expert at trial. The bill would make the defendant's or his or her counsel's refusal to do so admissible as evidence at trial.

This bill would amend Proposition 115, an initiative statute adopted by the voters at the June 5, 1990, statewide primary election, which provides that its provisions may be amended by the Legislature by a $\frac{2}{3}$ vote of the membership of each house.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1054.3 of the Penal Code is amended to
2 read:
3 1054.3. (a) The defendant and his or her attorney shall disclose
4 to the prosecuting attorney:
5 ~~(a)~~
6 (1) The names and addresses of persons, other than the
7 defendant, he or she intends to call as witnesses at trial, together
8 with any relevant written or recorded statements of those persons,
9 or reports of the statements of those persons, ~~including~~ including
10 any reports or statements of experts made in connection with the
11 case, and including the results of physical or mental examinations,
12 scientific tests, experiments, or comparisons which the defendant
13 intends to offer in evidence at the trial.
14 ~~(b)~~
15 (2) Any real evidence which the defendant intends to offer in
16 evidence at the trial.
17 (b) *Whenever a defendant places his or her mental state at the*
18 *time of the crime in issue by plea or by giving notice of his or her*
19 *intention to call a mental health expert at trial, the defendant and*
20 *his or her attorney shall, upon the prosecuting attorney's request,*
21 *grant access for purposes of a mental health examination of the*
22 *defendant by the prosecuting attorney's expert. The defendant's*
23 *or his or her counsel's refusal to do so is admissible as evidence*
24 *at trial.*